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Attorney for Defendants:
WEREKO KWAME and ZOBENG TRUCKING, LLC
Our File No.: GBSU-2021-1

-----X
EVELYN BYRD and RENE GIBBS,

Plaintiffs,

-vs-

WEREKO KWAME, ZOBENG TRUCKING, LLC,
JOHN AND JANE DOE 1-10 (FICTITIOUS
UNIDENTIFIED INDIVIDUALS) AND ABC
CORPORATION 1-10 (FICTITIOUS
UNIDENTIFIED BUSINESS ENTITIES),

Defendants.
-----X

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: UNION COUNTY

DOCKET NO: UNN-L-29-21

CIVIL ACTION

**ANSWER TO COMPLAINT,
AFFIRMATIVE DEFENSES, JURY
DEMAND, DESIGNATION OF TRIAL
COUNSEL, REQUEST FOR STATEMENT
OF DAMAGES, AD DAMNUM DEMAND,
REQUEST FOR INTERROGATORIES,
NOTICE PURSUANT TO RULES 1:51-1(a)
AND 4:28-4(e) AND CERTIFICATIONS**

Defendants, WEREKO KWAME and ZOBENG TRUCKING, LLC, answering Plaintiffs'
Complaint, allege:

AS TO THE FIRST COUNT

1. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph "1" of the First Count.

2. Defendants admit only that WEREKO KWAME was operating a vehicle registered to ZOBENG TRUCKING, LLC, with North Carolina license plate #NE9127, with the consent and permission of ZOBENG TRUCKING, LLC, on April 12, 2019 in the area of Randolph Avenue and Route 1 in Rahway, New Jersey and respectfully refer all questions of law and legal conclusions to the Honorable Court as to the truth of the allegations of Paragraph "2" of the First Count.

3. Defendants admit only that WEREKO KWAME was operating a vehicle registered to ZOBENG TRUCKING, LLC, with North Carolina license plate #NE9127, with the consent and permission of ZOBENG TRUCKIN, LLC, on April 12, 2019 in the area of Randolph Avenue and Route 1 in Rahway, New Jersey and respectfully refer all questions of law and legal conclusions to the Honorable Court as to the truth of the allegations of Paragraph “3” of the First Count.

4. Defendants make no response to the allegations of Paragraph “4” of the First Count as they are not directed to the answering Defendants and no response is required. To the extent that a response is required, Defendants deny any negligence or responsibility for any injury Plaintiffs allege to have sustained.

5. Defendants deny each and every allegation contained in Paragraph “5” of the First Count.

6. Defendants deny each and every allegation contained in Paragraph “6” of the First Count.

7. Defendants deny each and every allegation contained in Paragraph “7” of the First Count.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

1. The Complaint herein fails to state a claim which relief can be granted as to these Defendants, and these Defendants reserve the right to move, at or before the time for trial, to dismiss the Complaint for failure to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

2. This Court lacks jurisdiction over the person of these Defendants by reason of insufficiency of process and these Defendants reserve the right to move at or before trial for a dismissal of the Complaint on the ground of lack of jurisdiction because of insufficient of process and/or service.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

3. The Court lacks *in personam* jurisdiction over these Defendants, and these Defendants reserve the right to quash service of the Summons and Complaint.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

4. At the time and place mentioned in the Complaint, these Defendants were not guilty of any negligence which was a proximate cause of the alleged accident, injuries and damages of which the Plaintiff complains.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

5. These Defendants violated no legal duty owed by Defendants, if any, to the Plaintiff.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

6. The Plaintiff was guilty of the sole negligence which was the proximate cause of the damages complained of.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

7. The Plaintiff was guilty of contributory negligence during the accident at issue.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

8. The Plaintiff was guilty of comparative negligence of a greater degree than the negligence of these Defendants, which is denied.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

9. The alleged damages sustained by the Plaintiff were the proximate result of the acts and/or omissions of parties over which these Defendants exercised no control.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

10. This accident resulted from circumstances and conditions beyond the control of these Defendants.

AS AND FOR A ELEVENTH AFFIRMATIVE DEFENSE

11. Plaintiff assumed the risk of conduct for the incident out of which the Complaint has arisen.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE

12. The injuries and damages set forth in the Complaint were caused by and arose out of risks of which Plaintiff had full knowledge and which Plaintiff assumed.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

13. The Plaintiff has failed to satisfy the terms, provisions and conditions of N.J.S.A.39:6A-1 *et set.*, and these Defendants reserve the right to move to dismiss the Complaint at or before the time of trial.

AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE

14. The Plaintiff has failed to properly name the parties in interest.

AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE

15. The Plaintiff has named parties herein who are not proper parties to this action.

AS AND FOR A SIXTEENTH AFFIRMATIVE DEFENSE

16. Defendants are not and cannot be found liable for the damages alleged by Plaintiff herein.

AS AND FOR A SEVENTEENTH AFFIRMATIVE DEFENSE

17. Plaintiff failed to wear a seatbelt and any damage owed must be reduced by Plaintiff's comparative negligence in failing to wear same.

WHEREFOR Defendants, WEREKO KWAME and ZOBENG TRUCKING, LLC, demand judgment dismissing the Complaint, together with the costs and disbursements of this action.

JURY DEMAND

PLEASE TAKE NOTICE that these Defendants demand a trial by jury on all issues so triable.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R.4:5-1, Roberto D. Uribe, is hereby designated as trial counsel.

REQUEST FOR STATEMENT OF DAMAGES

These Defendants request, pursuant to R. 4:5-2, that within 5 days after service hereof, you serve upon the undersigned a written statement of damages claimed by the Plaintiff.

REQUEST FOR ANSWERS TO INTERROGATORIES

Defendants hereby demand that the Plaintiff provide answers to Uniform Interrogatories within sixty (60) days from the Date that this Demand was served.

NOTICE PURSUANT TO RULES 1:5-1(a) and 4:17-4(c)

PLEASE TAKE NOTICE that the undersigned attorney hereby demands that each party herein serving pleadings and/or interrogatories and/or receiving answers hereto serve copies of all such pleadings and answered interrogatories received from any party upon the undersigned.

PLEASE TAKE FURTHER NOTICE that this is a continuing demand.

CERTIFICATION

I hereby certify that based upon information and belief and the information currently in our possession, the matter in controversy is not the subject of any other action or proceeding or the subject of a pending arbitration.

I hereby certify that the within pleading is being filed and served within the time prescribed by the Rules of this Court.

Dated: March 3, 2021

GALLO VITUCCI KLAR LLP

Attorneys for Defendants:

WEREKO KWAME and

ZOBENG TRUCKING, LLC



By:

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PROOF OF MAILING

1. I, the undersigned, am an attorney for Defendants, WEREKO KWAME and ZOBENG TRUCKING, LLC, in the above-entitled action.

2. That on the 3rd of March 2021, deponent served the within Plaintiff their Answer to Complaint and Certification via electronic filing:

Jorge Hernandez, Esq.
JORGE L. HERNANDEZ, LLC
100 Jefferson Avenue, Suite 302
Elizabeth, New Jersey 07201
JHERNANDEZ@LAWYERHERNANDEZ.COM

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

A handwritten signature in blue ink, appearing to read 'R. Uribe', is positioned above a horizontal line.

ROBERTO D. URIBE, ESQ.
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